REMARKS

Claims 1-37 are pending in the application.

Claims 1-37 have been rejected.

Claims 1, 8, 13, 18, 24 and 30 have been amended.

Claims 12 and 23 have been cancelled.

Rejection of Claims Under 35 U.S.C. §112

Claims 1, 8, 12, 13, 23, 24, and 30 stand rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. Applicants respectfully traverse this rejection.

The Office Action indicates that the Examiner was unable to find disclosure in the originally filed Application of "wherein said decomposing comprises placing a selected portion of the input datastream into a selected one of a plurality of channels, and a sub-stream of said sub-streams comprises the selected portion of the input datastream." Office Action, p.3. As an initial matter, the Office Action fails to provide any specificity of the language in the cited claim limitation that cannot be found in the indicated section of the Application. Applicants maintain that the cited section (p.17:11-18) does indeed provide disclosure of the quoted claim language. But, in order to advance prosecution, Applicants are presently amending the claim language found in the independent claims to the following language:

> wherein said decomposing comprises placing a portion of the input datastream into one of a plurality on queues, and each queue of the plurality of queues corresponds to a corresponding channel of a plurality of channels.

See, e.g., Claim 1 (as amended); *see also* Claims 13, 24 and 30. Applicants respectfully submit that the amended claim language finds support in the following:

> The high-speed datastream can be decomposed into sub-streams in any one of a number of ways. For example, a simple round-robin technique may be employed where a portion of the high-speed datastream is periodically placed in one of a number of queues, each corresponding to one of the channels.

Application, p.17:11-14 (emphasis added). Applicants respectfully submit that the emphasized text in the quoted passage from the application contains word-for-word disclosure of the amended claim language.

Applicants note that while word-for-word disclosure is not required as support for claim language, Applicants have chosen to amend the claims with word-for-word support to avoid the Examiner's continuing rejection to claims that do not have word-for-word support. Applicants respectfully reserve the right to pursue the previously submitted claims in, for example, a continuation application at a future date.

The Office Action further indicates that the Examiner was unable to find support for the underlined term in the following claim limitation: "communicating said sub-streams between a first network element and a second network element of said network by transporting each one of said substreams over a corresponding one of a plurality of channels." Applicants have amended this claim limitation in the following manner:

> communicating said sub-streams between a first network element and a second network element of said network by transporting each one of said substreams over the corresponding channel.

See, e.g., Claim 1 (as amended); *see also* Claims 13, 14, and 30 (as amended). Applicants respectfully submit that the amendments to the claim language take into account the antecedent basis provided by the amended claim limitation discussed above.

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Applicants further submit that support for the claim element "corresponding" can be found at least in the emphasized section of the following passage:

> Once decomposed into sub-streams, the high-speed datastream is transported across the network by transporting each of the (possibly compressed) sub-streams over a corresponding channel (step 820), such as one of optical channels 115(1)-(N).

Application, p.17:19-21 (emphasis added). Applicants respectfully submit that the emphasized passage of the quotation ("over a corresponding channel") is word-for-word disclosure of "over the corresponding channel" element of the above claim limitation.

The Office Action further states that the Examiner is unable to find claim elements "selected" in Claim 8 and "the queue" and "the selected" in Claim 12. Applicants respectfully submit that Claim 8 has been amended to remove the indicated language in order to agree with the antecedent basis provided in independent Claim 1 from which Claim 8 depends. Applicants further indicate that dependent Claim 12 has been canceled and therefore the objection as to that claim is moot.

For at least the above reasons, Applicants respectfully submit that the above claims, as amended, all find support within the original Application and the various Provisional Applications to which the Application claims priority. Applicants therefore request the Examiner's reconsideration and withdrawal of the rejections to Claims 1, 8, 13, 23, 24 and 30 under 35 U.S.C. §112, and an indication of the allowability of same.

Rejection of Claims Under 35 U.S.C. §102

Claims 1-6, 9-18, 20-28 and 30-34 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent 5,710,650 issued to Dugan et al. ("Dugan"). Applicants respectfully traverse this rejection.

For reasons expressed in responses to prior Office Actions in this matter, Applicants respectfully submit that Dugan does not provide anticipatory disclosure of the invention as claimed, either now or prior to the current amendments. Applicants expressly incorporate by reference all discussions raised in prior responses to Office Actions. Applicants, however, have amended the various independent claims in order to advance prosecution. Applicants provide the following discussion with regard to issues raised by the amended claim limitation as well as additional discussion with regard to the inapplicability of Dugan as to the present invention.

Each of the currently amended independent claims contains a claim limitation of substantially the following form:

> decomposing an input datastream into a plurality of sub-streams, wherein said decomposing comprises placing a portion of the input datastream into one of a plurality of queues, and each queue of the plurality of queues corresponds to a corresponding channel of a plurality of channels.

See, e.g., Claim 1 (as amended). Applicants respectfully submit that none of the cited sections of Dugan provide any disclosure of a decomposition process that comprises placing a portion of an input datastream into one of a plurality of queues. Similar language to the amended claims was originally found in dependent Claim 12 of the present application (now cancelled). The Office Action provides a vague and broad citation to Dugan Figure 2 as providing disclosure of queues. Applicants have reviewed Figure 2 and its description and have found no reference to a queue of any kind. *See*

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Dugan 5:62-6:28. In addition, even were a queue to be disclosed in Figure 2, this would not disclose the claimed queues because Figure 2 is an illustration of Dugan's "optical receiver portion 50" for one embodiment of the disclosed mechanism within Dugan. The claim language provided for independent Claim 1 relates not to a method associated with receiving, but to a method associated with transmitting.

As purported disclosure of the "decomposing" limitation of the present independent claims, the Office Action cites to a single sentence in Dugan's Abstract. As discussed in Applicant's responses to prior Office Actions (incorporated by reference in their entirety), the remaining sections of Dugan provide no support for the cited sentence of the Abstract ("The circuitry includes circuitry for partitioning the high-data rate datastream into a plurality of lower data rate datastreams."). *See* Office Action, p.9; Dugan, Abstract. As discussed in prior responses, the remaining sections of Dugan do not take a high-data rate datastream and decompose it into a plurality of sub-streams. Instead, Dugan <u>combines</u> a plurality of low-data rate datastreams into a set of higher data rate datastreams which are then transported on channels. Effectively, the output of Dugan is a single signal sent out on an optical transport media. On the other hand, the output of the present invention is multiple signals send out on a number of corresponding channels on corresponding transport media.

Applicants respectfully submit that the Office Action's use of only one section (indeed, only one sentence) of the disclosure of Dugan in order to support anticipation of the present application is an impermissible picking and choosing of convenient language within the reference, when the reference as a whole does not support the contention of anticipation. *Cf. Bausch & Lomb, Inc. v. Barnes-Hind/Hydracurve, Inc.*, 230 U.S.P.Q. 416, 419 (Fed. Cir. 1986) ("It is impermissible...to pick and choose from any one

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reference only so much of it as will support a given position to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one skilled in the art."); *see also W. L. Gore & Assoc., Inc. v. Garlock, Inc.*, 721 F.2d 1540 (Fed. Cir. 1983) (a prior art reference must be considered in its entirety, i.e., as a whole). Applicants respectfully submit that the present Office Action, and the previous Office Actions, can cite only to the Abstract for disclosure of the "decomposing" claim limitation because there is no disclosure within the remainder of Dugan. Furthermore, the Office Action ignores the disclosure of its own further citation to Dugan, wherein it is clearly indicated that "the one hundred ninety-two 51 Mb/s signals are divided into four groups, with each group containing 2.5 Gb/s worth of data for processing into the final 10 Gb/s datastream," wherein the reference clearly <u>combines</u> low-data rate datastreams to form high-data rate datastreams rather than the claimed decomposing. *See* Dugan 7:19-27; Office Action, p. 9.

For at least the above reasons, and for reasons expressed in response to prior Office Actions, Applicants respectfully submit that the independent Claims 1, 13, 24 and 30, as amended, and all claims depending upon them, are in condition for allowance. Applicants request the Examiner's reconsideration and withdrawal of the rejections as to these claims and an indication of the allowability of same.
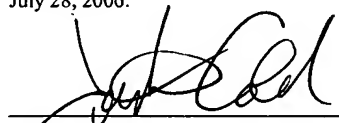
Rejection of Claims Under 35 U.S.C. §103

Claims 7, 8, 19, 29 and 35 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 5,710,650 issued to Dugan et al. ("Dugan") in view of U.S. Patent 5,867,484 issued to Shaunfield ("Shaunfield"). Applicants respectfully traverse this rejection.

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Applicants hereby incorporate by reference the discussions related to the rejection of Claims 7, 8, 19, 29 and 35 under 35 U.S.C. §103(a) over Dugan in view of Shaunfield, as expressed in the responses to prior Office Actions. Applicants further respectfully submit that, for the reasons expressed above with regard to the rejection of the independent claims in light of 35 U.S.C. §102(b), Dugan does not provide disclosure of the independent claims, as amended. Since all of the claims rejected under 35 U.S.C. §103 are dependent upon the above-discussed independent claims, and since Shaunfield is not suggested in the Office Action to provide the missing disclosure from Dugan, Applicants respectfully submit that dependent Claims 7, 8, 19, 29 and 35 are in condition for allowance. Applicants respectfully request Examiner's reconsideration and withdrawal of the rejections as to these claims and an indication of the allowability of same.
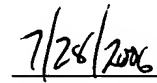
CONCLUSION

In view of the amendments and remarks set forth herein, the application and the claims therein are believed to be in condition for allowance without any further examination and a notice to that effect is solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephonic interview, the Examiner is invited to telephone the undersigned at 512-439-5090.

Respectfully submitted,
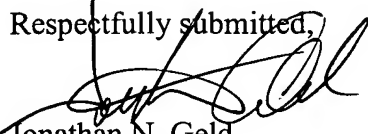
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